



**TOWN OF MIDDLEBURG
PLANNING COMMISSION
WORK SESSION & REGULAR MEETING MINUTES**



**MONDAY, MAY 22, 2023
PENDING APPROVAL**

PRESENT: Terence S. Cooke, Chair
Donald Woodruff, Vice Chair (arrived late)
Rachel Minchew, Member
Mimi Dale Stein, Member
Morris “Bud” Jacobs, Councilmember

STAFF: William M. Moore, Deputy Town Manager/Town Planner
Rhonda S. North, MMC, Town Clerk

ABSENT: H. H. “Dev” Roszel, Member (excused)
Edward R. Fleischman, Member (excused)

The Middleburg Planning Commission held their regular monthly meeting on Monday, May 22, 2023 in the Town Hall Council Chambers. Chair Cooke called the work session to order at 6:30 p.m. Town Clerk North called the roll.

Discussion Item

ZTA 23-02: Ordinance to Amend Zoning Ordinance Pertaining to Lot Requirements & Building Height in R-2 Single-Family Residential District and Non-Conforming Lots of Record

Deputy Town Manager Moore reviewed the history of this item. He explained that there was still a concern among some members of Council that the zoning ordinance amendments had not gone far enough to stem the massing of the new houses being constructed in the R-2 District, which resulted in the Council’s adoption of a strategic initiative calling for a continuation of the work to address the concerns and protect the established neighborhoods. (Vice Chair Woodruff arrived at the meeting at 6:33 p.m.) Mr. Moore advised that the staff developed a work plan to consider additional zoning text amendments. He reported that during its last meeting, the Council initiated a zoning text amendment that involved further review of the regulatory standards and the enactment of floor-area-ratio (FAR) regulations. Mr. Moore noted that they also looked at the establishment of an architectural control district and advised that the staff was conducting research on this item. He noted that it was not currently in the work plan.

Deputy Town Manager Moore reviewed the amendments that were being proposed to the R-2 District regulations, which included: (1) increasing the minimum side yard requirement from the current 7.5 feet to 10 feet; (2) reducing the maximum building lot coverage of the area under roof from 30% to either 25% or 20%; (3) reducing the maximum lot size cap; (4) reducing the maximum building cap on a lot; (5) enacting FAR requirements, including a maximum FAR of either 0.3 or 0.4; (6) eliminating the provisions that allow for building height of greater than 25 feet through increased side yards; and, (7) considering whether the maximum building height should be reduced below 25 feet.

Deputy Town Manager Moore advised that the Council believed a robust public outreach was needed before a decision could be made on which amendments should be pursued. He noted that the public would be notified of this outreach opportunity through advertisements and public mailers to the property owners in the R-2 District. Mr. Moore advised that, following the public outreach session, the Council also wished to hold a joint meeting with the Planning Commission to decide how to proceed.

Chair Cooke opined that the Commission felt the previously approved changes to the zoning ordinance were helpful in protecting the character and aesthetics of housing in the R-2 District as the older homes transitioned to newer, more modern ones. He further opined that the previous approach was reasonable. Mr. Cooke expressed concern that the additional changes, specifically those related to heights, setbacks, and volumes, would affect property rights in the R-2 District. He noted that limiting the size of replacement homes would affect the value of the existing homes. Mr. Cooke opined that for many residents, their home was their retirement plan. He agreed the community outreach was critical. Mr. Cooke noted that the Planning Commission had not heard from residents in the R-2 District who were looking for further changes and advised that he looked forward to the expression of opinions from the residents and the realtor and home builders' communities. He noted that he had received communications from a developer who was sympathetic to the Council's goals; however, he advised that it would be difficult to find a market for smaller homes. Mr. Cooke suggested this needed to be considered.

In response to inquiries from the Commission, Deputy Town Manager Moore reminded the members that prior to the latest zoning ordinance amendment, the maximum building height was thirty feet, and the minimum side yard requirement was 7.5 feet. He further reminded them that the amendment reduced the maximum building height to twenty-five feet; however, it allowed for a one-foot increase in height for each additional foot of increase in the side yard, up to a maximum of thirty feet. Mr. Moore explained that the reason for this was the three homes that were constructed on Reed Street, which were built to the maximums allowed, that highlighted the massing of houses when multiple ones were constructed in a row.

Councilmember Jacobs opined that the work the Planning Commission did on its recommendation was adequate and advised that he did not agree with the sentiment of Council that further changes were needed. He suggested that some points that should be considered were: (1) the impact of these decisions on individuals whose economic circumstances could be damaged if the sales values of their homes were diminished; and (2) these changes would not bring about affordable housing due to the value of the lots. Mr. Jacobs noted that the Comprehensive Plan talked about preserving the character of the neighborhoods. He further noted that the housing would not be affordable in Middleburg unless the Town subsidized it or authorized the construction of multi-unit dwellings. Mr. Jacobs suggested that if any of these arguments arose when meeting with the Council, the members should shoot them down and opined that they were not a legitimate basis for making the kinds of decisions the Commission was being asked to make.

Vice Chair Woodruff advised that the populace of the entire town was concerned about whether what was being considered was in their best interests. He expressed hope that the residents' concerns would be expressed.

In response to an inquiry from the Commission, Deputy Town Manager Moore acknowledged that most of the discussion had focused on the west end of town and noted that there were other areas that were zoned R-2 District. He encouraged the members to visit Lincoln Road and advised that there was an example of a tear down/rebuild there on a particularly small lot. Mr. Moore reminded the members that the minimum lot size was 8,000 square feet and noted that there were a lot of parcels in town that did not meet that requirement. He advised that a single-family dwelling could still be constructed on such a lot if all the other zoning ordinance requirements were met. Mr. Moore noted that this provision was, however, proposed to be struck from the ordinance. He advised that if a lot was 80% of the required lot size, the side yard could be reduced to five feet, which was what occurred on Lincoln Road. Mr. Moore advised that under the proposed amendments, the side yard must be 7.5 feet and possibly 10 feet.

Chair Cooke noted that what was being proposed was a lot to digest. He suggested that at the next meeting, the Commission reach a consensus on which option(s) they believed were appropriate for consideration.

Deputy Town Manager Moore advised the Commission that he was not saying they must move forward with a positive recommendation on something and noted that they could return the zoning text amendments to the Council with a recommendation for denial. He suggested that during the next meeting, they should reach a consensus on which options should be presented to the public in order to better frame those discussions. Mr. Moore further suggested that too many options should not be taken to the public.

In response to inquiries from the Commission, Deputy Town Manager Moore advised that the public outreach session would be held in late June or early-to-mid July and noted that in any case, it would be after the Commission's June meeting. He suggested that if the Commission needed additional time to study the issues, another month could be built

into the schedule. Mr. Moore suggested the members study the options between now and their June meeting. He advised that the scheduling of the meeting venue would be key in determining how much time was needed to notify the public of the outreach session. Mr. Moore suggested the invitations be sent at least a week in advance of the session.

The Commission suggested that more notice be given. They noted that summer was not the best time for a public outreach session, as people tended to be on vacation.

In response to inquiries, Deputy Town Manager Moore reminded the Commission that the regulations required that garden sheds be constructed in side or rear yards; and, allowed them to be constructed as close as five feet to the rear or side yard. He advised that no changes were being proposed to those provisions. Mr. Moore confirmed that sheds could, however, be affected by the reduction in the maximum building lot coverage regulations.

Councilmember Jacobs advised that he had already heard from a resident about things that would be disallowed on her property if the amendments were approved.

ZTA 23-03: Ordinance to Amend Zoning Ordinance Pertaining to Definition of Professional Office and Associated Regulations Thereof

Deputy Town Manager Moore reviewed the history of the zoning text amendment to the C-2 Commercial District regulations that occurred in 2003, which prioritized pedestrian oriented businesses. He reminded the Commission that office uses were allowed by-right on anything other than the street level in the C-2 District and by special use permit on the street level. Mr. Moore further reminded them that real estate offices were placed in a separate category and were still allowed by-right on the street level. He noted that over time, there had been a gradual increase in the number of real estate offices in the C-2 District and advised that the Economic Development Advisory Committee and the Council thought they had reached a critical mass. Mr. Moore advised that he was proposing a zoning text amendment to treat real estate offices the same as other professional offices, as well as to clear up some language pertaining to off-street parking.

Chair Cooke opined that the objective was to increase the amount of commercial space that was available for walk-in traffic in the core commercial district. He questioned whether a real estate office would rely on walk-in traffic. Mr. Cooke suggested that if the Commission was satisfied that the zoning text amendment was sufficient, it could entertain a motion to schedule a public hearing on it.

Deputy Town Manager Moore suggested the public hearing be scheduled for the June meeting and noted that the Commission would not be obligated to act on the amendment that evening. He noted that if it passed, existing real estate offices would be allowed to continue as non-conforming uses. Mr. Moore advised that they would not be able to relocate to another space on the ground floor within the C-2 District without a special use permit; however, they could expand at their existing locations if they had available space to do so.

Councilmember Jacobs moved, seconded by Vice Chair Woodruff, that the Planning Commission advertise the proposed amendment for public hearing at their June 26th meeting.

Vote: Yes – Commissioners Woodruff, Minchew, and Stein and Councilmember Jacobs

No – N/A

Abstain – N/A

Absent – Commissioners Fleischman and Roszel

(Chair Cooke only votes in the case of a tie.)

There being no further business, Chair Cooke adjourned the work session and called the regular meeting to order at 7:15 p.m.

Disclosure of Meetings With Applicants

No meetings with applicants were reported by the members.

Public Comment

Dominic Mingione, of The Plains, advised the Commission that he was a builder in town. He expressed concern for the financial health of property owners in the R-2 District should the proposed changes be adopted, as they would not be able to sell their houses for what they could sell them for today. Mr. Mingione noted that they would also not be able to add onto them. He suggested that models be prepared for use during the public information session. Mr. Mingione offered to meet with the members of the Planning Commission to discuss the proposed changes. He opined that if the building height restrictions were reduced, it would result in homes that were not of a good design or only one-story. Mr. Mingione advised that if FAR regulations were put into place, it may not pay someone to build a house that was that small. He opined that Middleburg already had good zoning regulations in place. Mr. Mingione advised that if the side yard requirements were increased to 12.5 feet, this would result in 25 feet between structures. He reiterated his concern that the proposed changes would hurt the property owners. Mr. Mingione cited a house he recently constructed on Blue Ridge Avenue and advised that he could not construct a first-floor master suite in it under the existing rules. He suggested the residents be allowed to vote on whether they wanted the amendments. Mr. Mingione acknowledged that while the Planning Commission would make a recommendation, the Town Council could still put whatever regulations they wanted into place. He opined that it would be good to hold a public meeting and reiterated his suggestions that models be presented so people would understand what was being proposed.

Deputy Town Manager Moore encouraged the Commissioners to walk around town. He noted that the houses at 204 and 206 Sycamore Street were being constructed under the existing zoning regulations and opined that it would be good for the members to have a visual of what they meant.

Mike Morency, 2329 Landmark School Road, advised the Commission that he owned 104 Reed Street, which consisted of five lots. He noted that he always thought he would move into town as he got older; however, he expressed concern about the new houses that have changed the character of the town. Mr. Morency cited the new homes that were constructed on Reed Street as an example and opined that it was unfortunate that the newer homes were being constructed to the scale they were. He advised that he did not want to impinge upon property rights; however, the appeal of Middleburg was the character of the homes. Mr. Morency opined that it was reasonable to establish new maximum limits to keep the character of the town. He advised that he supported the amendments as proposed by the Council and suggested the Commission propose a 25% building lot coverage maximum and a FAR of 0.4. Mr. Morency opined that it was important to hear from the property owners and advised that he looked forward to attending the public meeting. He recognized the amount of time the members of the Planning Commission and Council had invested on this issue and opined that this was in the Town’s best interests. Mr. Morency advised that he and his wife supported the proposed amendments.

Mark Chretien, of 3639 36 Road, Arlington, thanked the Planning Commission for their consideration of his proposed inn request. He advised that he was okay with the neighbors’ comments and wanted to address them; however, time was the issue. Mr. Chretien noted that he was interested in continuing to grow his business, which would include adding an inn, and would return in the future with another proposal.

Approval of Meeting Minutes

Vice Chair Woodruff moved, seconded by Councilmember Jacobs, that the Planning Commission approve the April 24, 2023 work session and regular meeting minutes as presented.

Vote: Yes – Commissioners Woodruff, Minchew, and Stein and Councilmember Jacobs
No – N/A
Abstain – N/A
Absent – Commissioners Fleischman and Roszel
(Chair Cooke only votes in the case of a tie.)

Unfinished Business

ZMA 23-01 and SUP 23-01: Ordinance to Rezone 0.26 acres from R-3 Residential to C-1 Commercial and Special Use Permit for an Inn – 204 E. Washington Street

Deputy Town Manager Moore reported that both applications were withdrawn by the applicant; therefore, no further action was required. He advised that the Council recently discussed the zoning text amendment to add inns as a special use in the C-1 District, during which time, they strongly indicated their intent to deny it following the public hearing on May 25th. Mr. Moore noted that Mr. Chretien withdrew his applications following the Council's comments.

Council Representative's Report

Councilmember Jacobs reported that the Middleburg Community Farmers' Market opened on May 20th. He noted that attendance was low and expressed hope that it would pick up soon. Mr. Jacobs advised that it was being held in the Middleburg Community Charter School's parking lot this year but would be held in the new Town Hall parking lot in the future.

Councilmember Jacobs noted the Council's discussion of the proposed zoning text amendment related to the addition of inns as a special use in the C-1 District. He advised that prior to the discussion, there was substantial public comment on the inn, almost all of which was negative. Mr. Jacobs expressed frustration that the public and Council did not sever the discussion of the zoning text amendment from the proposed inn. He advised that the Councilmembers made it clear they would likely not approve the zoning text amendment and opined that this was unfortunate, as it would have been useful for them to have considered it. Mr. Jacobs reiterated that its discussion got bound up in the pending inn applications.

Chair Cooke noted that he watched the Council meeting. He shared Councilmember Jacob's disappointment that the Council did not take a holistic view on the question of whether inns should be allowed by special use permit in the C-1 District. Mr. Cooke opined that it would be interesting to see what would happen to the Washington Street property now.

Commissioner Stein opined that the building looked like it should be an inn.

Discussion Items

Notice of Variance Applications

Deputy Town Manager Moore advised the Commission that two variance applications had been filed and noted that the Board of Zoning Appeals (BZA) had not heard a variance case since 2008. He explained that when a variance application was filed, the State Code required that the Planning Commission be notified, as they had the right to send a recommendation to the BZA on it or to appear during the BZA's public hearing. Mr. Moore noted that during his career, he had never known a planning commission to do so. He advised that the variance requests were related to building lot coverage and impervious surface coverage. Mr. Moore reminded the Commission that under the State Code, in order to grant a variance, the BZA must make a finding that the condition was not a generally occurring one that was suited to be addressed through a zoning text amendment. He further reminded the members that he could not discuss the facts of the cases, as it could be considered to be ex-parte communications, particularly since Commissioner Roszel also served on the BZA. Mr. Moore advised that the Planning Commission could discuss the applications; however, he could not participate in their discussions.

The Commission agreed they were not interested in taking a role in either application.

Quorum for May Meeting

Vice Chair Woodruff reported that he would not be available to attend the June 26th meeting. The remaining members who were present indicated they would be present for the meeting.

There being no further business, Chair Cooke adjourned the meeting at 7:42 p.m.

RESPECTFULLY SUBMITTED:

Rhonda S. North, MMC, Town Clerk

Middleburg Planning Commission Transcript
May 22, 2023

(Note: This is a transcript prepared by a Town contractor based on the video of the meeting. It may not be entirely accurate. For greater accuracy, we encourage you to review the video that is on the Town's website – www.middleburgva.gov)

Rhonda North: You're good to go? [off mic]

Terry Cooke: Good evening, folks. This is the May 22, 2023 Middleburg Planning Commission meeting. Our Work Session begins now at 6:30. Our regular meeting is scheduled for 7:00 or whenever we conclude the work session. The work session is pretty heavily weighted this evening, so I think it's going to take a little more than 30 minutes probably to get through it, depending on what our Commissioners have to say. But we will convene the work session and Rhonda ask you to call the roll, please.

Rhonda North: Yes, sir. Chair Cooke.

Terry Cooke: Present.

Rhonda North: Vice Chair Woodruff is absent. Commissioner Fleischman is absent. Commissioner Minchew.

Rachel Minchew: Present.

Rhonda North: Commissioner Roszel is absent. Commissioner Stein.

Mimi Stein: Here.

Rhonda North: Council Member Jacobs.

Bud Jacobs: Present.

Terry Cooke: Very good. As I say, the agenda for the work session is robust. We have some interesting things to talk about here. We'll begin with the first discussion item, which is Zoning Text Amendment 23-02, an ordinance to amend articles two, eight and ten of the Middleburg Zoning Ordinance pertaining to lot requirements and building height in the R-2 Single Family Residential District and nonconforming lots of record. Will, thank you for the memo. Very good. Do you want to just summarize it for us before we enter into discussion?

Will Moore: Certainly. Thank you, Mr. Chairman. So I think we've talked about this for or highlighted that there would be an expectation that something would be coming from Council. Of course, over the last couple of years you have done pretty extensive work, pretty extensive study on concerns related to infill and redevelopment within the R-2 District, in particular in town. You were asked to look at that by Mayor and Council. You did an initial amendment. Then we had a study by the Berkley Group to help better inform, look at some benchmarking things like that, and come up with some additional recommendations for you to consider. Based on that report, you initiated amendment to enact a couple of additional amendments that Council adopted. Those things notwithstanding, there have been continued projects, as some of these regulations have gone into effect, including the most recent sets of amendments. And concerns still exist among our elected officials that we may not have gone far enough in stemming the massing of some of the new homes that have been constructed in the R-2 District. So to that end, the Council a couple of months ago in early March held a Strategic Planning Retreat to kind of review their strategic initiatives. And they adopted in the following week the update to the Strategic Plan, which included continued work on that initiative to address some of the concerns regarding protecting our established neighborhoods. As a result of that, staff put together a work plan for Council to consider regarding the enactment of potentially further amendments to the ordinance. The Council adopted that work plan in early April and then in late April and early May, they reviewed some options to consider for the initiation of a New Zoning Text Amendment. Those options included, as outlined in the memo, potentially revising

further revising some of our existing regulatory standards. It also involved potential enactment of a new regulatory standard, that being floor to area ratio, and it also involved looking at the potential for an Architectural Control District, which was one of the things that Berkley had highlighted in their report that is an option for us to consider because we do have enabling legislation which allows the town through our charter to enact architectural control outside of our Historic District. So Council initiated an amendment at their May 11th meeting, which is included in the packet for you, which included those first two options, that being the further revisions to existing regulatory standards as well as the potential enactment of floor area ratio requirements in the R-2 District. They remain interested in the Architectural Control District idea and have requested additional information from staff on how that might work, how those kind of guidelines might appear. So we're doing some additional research, but if they eventually choose to go that route, that's not in the current work plan. So the current work plan just involves potential revisions to our zoning ordinance. So with that said, the draft amendment is included. The highlights, if you will, that they're asking for you to consider in the coming months is to potentially revise the side yard requirement in R-2 taking that from the current 7.5ft minimum up to 10 feet to consider the building lot coverage, the maximum percentage that's the area under roof on a lot which currently stands at 30%. And they're asking you to consider either reducing that to 25% or to 20%, as well as if you recall, when we looked at the Berkley report, they had recommended a maximum lot size at one point in time. This body chose not to recommend that, but you did choose to cap the maximum building lot coverage as if the property were 12,500ft². So if multiple properties were consolidated or if there was an exceptionally large existing lot, say, 20,000ft², they would only be able to build upon it with those percentages as if it were 12,500. So in addition to the potentially reducing the building lot coverage to 25 or 20%, there would also be a corresponding reduction in the maximum cap. So right now, in no case could building lot coverage exceed 3,750ft², which equates to 30% of 12,500. If you were to reduce that to 25%, then that maximum cap would also be reduced to 3,125, which is 25% of 12,500. So I hope that makes sense. They're also recommending the enactment of a floor to area ratio and asking you to consider either a 0.3 or 0.4 maximum floor to area ratio. And we can talk a little further about that during discussion if you would like. They're also asking for building height that you eliminate the existing exception that allows you to exceed 25ft in height by providing additional side yard and just leaving it capped at 25ft. The other option they're asking you to consider is whether you should reduce that maximum height even further as low as 20ft. And we can again talk further about that. So these are the initial amendments with options that Council has asked you to start looking at through the initiation of this amendment. The one thing I do want to highlight is while a lot of this is being thrown at you, and obviously you'll have to do some study on it. In terms of the process of how this would work they're not asking it to be done through the bare minimum process, if you will. So a Zoning Text Amendment because it doesn't involve individual properties, but districts as a whole never involves individual notification of property owners. Usually it's just there's a public hearing that's advertised in our newspaper, on our website, meeting all the code requirements, but it doesn't necessarily include robust outreach to the community. Council did recognize in their discussion back at their Strategic Planning Retreat that going even further with regulatory revisions is something that, if they were to consider doing, really does need to include a more robust public outreach. So as part of this process, before you would be asked to send a recommendation back to Council on these, we would schedule a public meeting that we would heavily advertise. It would probably involve individual mailings to all property owners in the R-2 District who could be affected by these regulations. And then subsequent to when that meeting would take place, the Council would hold a joint meeting with the Planning Commission. So to talk about how we got here, talk about the outcomes of the input at the public meeting and at that point in time to decide whether to continue on this path as outlined in this amendment or whether we should change direction at that point. So I think that's a key part of this process is that it will involve that extensive public outreach and then that joint meeting of the two bodies, after that, before any decisions were actually to be made. That's yeah, that's a lot. Yes, sir. That's the overview. Happy to answer any questions or if you just want to discuss amongst yourselves.

Terry Cooke: Thank you, Will. At the outset, I'm reminded that one of the main reasons I decided to go to law school more than 50 years ago now was that I thought it was the last refuge for the math impaired, and I am math impaired. [laughter] And there were a lot of numbers in which you just ran through that. I think I understand what they mean and how they apply, but as we all know, this Commission dealt with this issue specifically with regard to changes for the R-2 District that we thought would be helpful in addressing concerns about aesthetics and character in the R-2 District as we transition, a lot of the older homes transition to newer, more modern homes. And we came up with an approach that I personally thought was reasonable. But it was apparent very early that the Council felt that we needed or they would hope that we would go a little farther on it. So that's where we are now. I think we're still dealing with primarily issues of character and aesthetics. I am now, as I was then, very much concerned with how additional changes on building heights, setbacks, volume are going to affect the, and I'll use the term in the broadest sense,

property rights of owners of homes in the R-2 District. Because I don't think anybody could seriously argue with the proposition that the more you limit the size of homes that can be built as replacement for existing homes, you affect the monetary value that the owners of those existing homes can hope to receive when and if they decide to sell their properties. To some of those folks maybe it makes no difference to other folks it's, I think, largely a retirement plan for them. And so I think we need to be, we need to keep that in mind as we go through this. And I think the community outreach element of this is absolutely critical because so far, we frankly have not heard much from the residents in general in R-2 as to whether they think this will be helpful or hurtful to them. And so I look forward to that community outreach. I hope the community outreach includes expressions of opinion from the realtor community and from the homebuilder community. I mean, I've had informal conversations with a member of the building community who has suggested that, you know, while they are sympathetic to the goals that the Council is trying to achieve it's difficult in this commercial environment, commercial in this real estate environment to build homes that are small or smaller or considerably smaller than the more recent new construction in town and find a market for those homes. So I think and that's just a one-off comment, but I think it suggests that there's a factor to be considered here. And I'm sure we'll all do that as as we move forward. Okay. I'll jump off my soapbox and invite any members of the commission who may have thoughts they'd like to express at this point. Please do so.

Rachel Minchew: I have a question. Rachel Minchew. Will, when we originally did the came up with the height, didn't we, wasn't there a ratio a formula that you had for the height to the side of the yard? And within that, I mean, it seemed pretty reasonable at the time.

Will Moore: So what happened was prior to the amendments that were enacted, there was a maximum height limit of 30ft. There was a minimum side yard of 7.5ft. When one set of those amendments was enacted, it lowered the height to a maximum of 25ft. That's if you were meeting the minimum side yards of 7.5ft, but it allowed if you provided greater side yard. So you came in further, you could go up to a maximum of 30ft with each additional foot. So if you came in to 12.5ft on either side, you could go still up to 30ft, which was the previous you just couldn't do the maximum spread and the maximum height.

Rachel Minchew: And part of that was to keep the esthetic of the building looking proper instead of tall or, you know.

Will Moore: I think part of it was that part of that particular idea was really kind of generated when we looked at the three infill homes on Reed Street, just north of the library, because it really highlighted because each of those was built to the maximum height with the minimum side yard. And it really highlighted not what that massing would do with one home on its own in the middle of the developed area with surrounded by smaller homes. But what happened if you put multiple ones in a row that really maximized. So that helped kind of say maybe that height is okay, but at that height, we need some more spread between them.

Rachel Minchew: Right. Okay.

Terry Cooke: Anyone else. There were several options outlined in the memo. And we can go through those and see what you think. [off mic]

Don Woodruff: No, no, go ahead.

Terry Cooke: Council Member Jacobs.

Bud Jacobs: I want to echo a couple of your remarks and maybe highlight a couple of other issues. After all the work that the Commission put into formulating the recommendations that we made. I felt that what we had done was adequate. I didn't agree necessarily with the sentiment on Council that we needed to go further, but we now have the staff work that Council asked Will and Estee to do, and we'll consider it, obviously. But there are a couple of points that I think need to be in our minds. One you've already mentioned, and that is the impact that these decisions may have on individuals whose economic circumstances risk being pretty seriously damaged by some of these decisions. I'm talking about the potential sale value of their homes when they finally decide to sell them. For a fair number of the population, particularly in Ridgeview. You're right. Those homes are there. Not necessarily their retirement plan, but their nest egg or their nut. And I think we need to be very careful and circumspect in how we take decisions that affect the economic well-being of those people. Secondly, one of the arguments that has been made, and we certainly heard

it. A lot in our discussions in Council is that this is somehow linked to providing more affordable housing in Middleburg. It's not and it cannot be. The Comprehensive Plan talks about primarily about preserving the character of the neighborhoods that we're dealing with here. There's mention, of course, in affordable housing of affordable housing. And we all know that Loudoun County as a whole has a has a problem providing adequate, affordable housing. But whatever happens in the R-2 District is not going to result in more affordable housing for people in Middleburg or for the workforce. The value of the lots alone, irrespective of the improvements that have been made, mean that those are not going to be affordable homes unless the town is willing to consider, I don't know, some form of subsidy, which I very seriously doubt is in the cards or perhaps building multi-unit authorizing multi-unit dwellings. Maybe there are other solutions, but when we discuss this and when we particularly when we interact with Council, if this particular shibboleth should come up in our discussions, I'd ask that we all respectively shoot it down because it is not a legitimate basis for making the kinds of decisions that we're being called upon to make. And I have a couple of questions about details, but I'll hold my peace.

Terry Cooke: Thank you. Thank you. Anyone else? At this time?

Don Woodruff: Mr. Chairman. Don Woodruff. Listening to people in the town, there is concern, and I think Bud expresses it very clearly, as you did, about whether what we're looking at is in the best interest of the entire town of the people, so to speak, the polis. And so the question arises, if these things are enacted, will we be responsive to questions that say not just one area, but the entire town has a concern for what is going on, which I'm not sure we looked at that as completely as we should have originally. And I certainly hope there's a way of, if it comes back to us, of being able to express the general concern of the people who live in Middleburg.

Terry Cooke: Thank you, Don. Anyone else? Bud I'll come back to you. You said you had a couple of questions.

Bud Jacobs: Will, thank you for the memo. I'm also math challenged. And frankly, I'm Planning Commission challenged on a lot of this stuff. I get all of option one except 1D, the provision about nonconforming lots of record.

Will Moore: Yeah.

Bud Jacobs: Could you just walk us briefly through that and explain how it would work?

Will Moore: Yeah, absolutely. And maybe let me start with kind of an example. So I think most of our discussion, although it's about the R-2 District as a whole, has been focused on the development on the western end of town. So Ridgeview, Fox Hills, which is Stonewall Avenue, the north side of it, but we also have the Village Hamlet, Chinn Lane, which is R-2, and we also have Lincoln Road, which is off of the Plains Road. If you've never been down Lincoln Road, I would highly encourage you to take a visit up there. It is hard to turn around at the end. There's no circle. But there was a home up there that has also been recently constructed. It was a tear down rebuild on a particularly small lot. So that particular excerpt that you see in the draft text amendment under nonconforming situations, there's a provision that just clarifies that if you have a nonconforming lot of record and that could be nonconforming as to lot width, lot area, etcetera. So in the R-2 District, the standard right now is a minimum lot size of 8,000ft². There are many lots scattered throughout the town that do not meet that requirement. A nonconforming lot of record can nonetheless have in a residential district, have a single family detached home constructed upon it if you meet all of the other requirements so side yards, height requirements, lot coverage, all of those things, there is a provision in it that is proposed in this draft amendment to be stricken, which says that if it's a particularly small lot, so if it's less than 80% of the required width or the required area, you can even reduce your side yards further. So as that applies in R-2 District, you can go from a minimum of 7.5ft on either side, which is a fairly small side yard as it is, and you could go even further down to five feet minimum. I highlight the example on Lincoln Road because that particular rebuild did just that. So the foundation walls on that home are five feet from either side. Now one side is a large vacant lot, but the other side is a developed lot. And so that even allows you to go much smaller if you have a nonconforming lot of record that is less than 80%. So what's proposed here is that that portion would be stricken that if you're less than 80%, you're allowed to reduce your yards even further. You could still build upon it, but you would have to meet all of the development requirements.

Terry Cooke: But you'd be limited excuse me, you'd be limited to five feet under any circumstances, is that correct?

Will Moore: Well currently, you would be limited to five feet. The way this amendment is, it would strike that provision. So you would have to meet the seven and a half. Or the way this amendment is also structured is it would increase to ten feet. So you would have to have a ten-foot side yard.

Terry Cooke: Thank you.

Will Moore: Yes, sir.

Bud Jacobs: Thank you.

Terry Cooke: Anyone else on this? There's a lot here, obviously for us to digest. I suppose what we want to try to do, if not tonight at the next meeting, is to come back with some sort of consensus as to and that's following additional discussion at the next meeting but develop a consensus as to which of these options or combinations of these options, we think is appropriate to go forward with. [off mic]

Will Moore: I think so. I don't want to force your hand in telling you that you have to agree to go forward with some from a positive recommendation. There could eventually be a time where you send the amendment back to Council with a recommendation for denial, depending on how all of your deliberations, how the community meeting goes. Those sorts of things. I think what would be helpful by the next meeting is if you could, among those options that are included, develop a consensus on which of those options we should present to the public. So should we present a reduction to 25% building lot coverage to the public, or should we present a reduction to even 20%? Because that will help better frame the discussion with the public? I don't think it's a great idea to take too many options to the public. I think if we take here is the amendment as it's structured. How do you feel about that? So I hope that makes sense.

Terry Cooke: I agree. I don't think it would be helpful to go with a forgive the expression, the Chinese menu of options. You're going to have 10% feeling one way and 20% feeling another way. Right. You never you never get anywhere. I guess what I was more concerned with was the work plan or work schedule that you have suggested because I think we had the public outreach meeting in June.

Will Moore: It could potentially be late June to early to mid-July. So but none, it's scheduled. The earliest it could be is the day after. [multiple speakers]

Terry Cooke: We want to have something to lay out to the public.

Will Moore: Right. Right. So it will not occur until at least after your June meeting. Now, if at your June meeting, you decide you want to do another month of study before you have the public meeting, we can do that. I think I laid it out to Council that, you know, here's this is a fairly aggressive schedule. And if you require more time, we can build that in. So, I don't need any decisions tonight at all. So what I might recommend is that study these things individually in between now and your June meeting. If you do have that kind of consensus, we can then work on scheduling the public meeting. If we need another month, we'll take another month and just report that to Council.

Terry Cooke: Okay, very good.

Rachel Minchew: How much time is required? So if our meeting obviously is the end of June, how much time between and we do say come up with something at that meeting. How much time are you giving to give the notification to the public?

Will Moore: Well, I think the key matter is actually going to be securing the venue for it. So that might we might have to look out at least a couple of weeks from that time. You know, I think if we get that invitation into people's hands at least one week prior to the meeting, that would be sufficient. If we can do it with even more lead time to allow for planning to attend, that would be better.

Don Woodruff: [multiple speakers] Let's try for more lead time if possible.

Will Moore: Yeah, yeah.

Rachel Minchew: Yeah. Because I just think it's summertime. A lot of families are traveling, and it feels like we're kind of doing it at not the most appropriate time in some ways.

Will Moore: Yeah, I hear that. Honestly, there are arguments made for all times of the year. I think July is generally better than August for people travel wise, but even then, you know.

Mimi Stein: I have a question. [inaudible] Hi. This may seem odd, and we didn't even discuss this, but Will, I know this is one of your favorite subjects. Garden sheds?

Will Moore: Yes. [laughter]

Mimi Stein: And I'm thinking in some of these tinier properties, if we, you know, had to bring in the side yards so much, 10 or 12ft, you end up with a garden. If you have to put a garden shed up, you put it in like in the middle of the yard. And I'm wondering if there's something this just adds, you know, fly in the ointment. But I'm wondering if we could have a provision that some small buildings under X number of square feet could be tucked more towards the property line.

Will Moore: We actually already have that, and that's not proposed to change. So an accessory structure as it's defined, which has to be 15ft or less in height, has to be in a side or rear yard. So this is your garden shed. It's a detached garage. They can already be as close as five feet to a side or rear line. And we're not proposing to change that.

Mimi Stein: I should have known that.

Will Moore: No, no, no.

Mimi Stein: Okay. Thank you.

Will Moore: The ordinance is only this thick, so it's okay if you don't know.

Bud Jacobs: The accessory structures could be affected by us reducing the maximum lot coverage under roof?

Will Moore: Absolutely. [multiple speakers] The building lot coverage does apply to that. Yeah.

Bud Jacobs: And I've actually heard from one of the residents up there who very much like to do some things on her property which would probably be disallowed under the scheme that we're looking at now. So.

Terry Cooke: Any other thoughts before we conclude this discussion item? Hearing none. We will close that discussion item. Thank you all for your thoughts on that. We'll have lots more conversation about it, I'm sure. Next discussion item is Zoning Text Amendment 23-03. An ordinance to amend articles 211-16?

Will Moore: Yes. [laughter]

Terry Cooke: 16, of the Middleburg Zoning Ordinance pertaining to the definition of professional office and associated regulations thereof. Again, Will thank you for the memo, but please summarize it for us.

Will Moore: Yeah. So in summary, I'll try not to beat this one too far to death. But in the early 2000s there was an amendment to the zoning ordinance. At that time in the C-2 District. So your core district downtown, there was a decision to try to take steps to actively prioritize the C-2 District for more pedestrian oriented type businesses, specifically retail, restaurant, personal services. At that time, office use was allowable on the first floor or street level. An amendment was passed in 2003 which converted the office use in C-2 to by right if it were on other than street level. So if it were on the second floor or if there were a basement level, that was fine. But in order to do it on street level or first floor, it would then require a Special Use Permit. However, at the time there was some apparent pushback from members of the real estate community, and they successfully lobbied the Council at that time to create a different category for them in C-2 wherein it would still be a by right use on first floor or ground level in C-2. Over the years

there has been a gradual expansion of those uses in town. And as I stated to Council, this is in no way saying that we don't like having our real estate community here in town. They're active parts of our business community. But the discussions with our Economic Development Advisory Committee and then later with Council in initiating this amendment was that maybe we've reached a critical mass of those uses in the C-2 District with I think we list seven of those such uses in our C-2 District currently that are currently in place. So the proposal that you have here would essentially treat a real estate office the same as we treat other offices. So it would remove it having a special category unto itself. If you wanted to do real estate office in the C-2 District other than on ground level, it would be by right. But if you wanted to do it in C-2 and in C-2 only on first floor, it would require a Special Use Permit. There's some cleaning up of other language in the ordinance. We have off-street parking requirements for several different types of offices that we don't even have definitions for. So we would clean that up and just create one category for off-street parking requirements for office use as well.

Terry Cooke: Thank you Will.

Will Moore: Yes, sir.

Terry Cooke: Okay. I will invite discussion among my fellow Commissioners. Anyone have any thoughts on this? So I guess the overall objective is to. Increase the stock or the potential stock of Commercial space available for lack of a better term walk in traffic in the Core Commercial District of town?

Will Moore: Yes, sir.

Terry Cooke: Question being, I suppose, is a real estate sales office of such nature that it relies upon walk-in traffic. Just like any other retail [off mic]. The answer to that. But it. I guess we can if we're satisfied, as I understand the memo that you've prepared Will if Commission is satisfied that the proposed amendment has before us is sufficient in our estimation, we can entertain a motion to schedule a public hearing. Or does it? Or do we prefer to [off mic]?

Will Moore: Oh, no. So you would have to have a public hearing. The Council would in turn have to have their own later. Yes.

Terry Cooke: Anyone feel that a motion is in order at this time? [off mic] if we're not compelled to act on it at this time, we can defer it. [off mic]

Will Moore: That's correct. [multiple speakers]

Don Woodruff: And go ahead. [off mic]

Bud Jacobs: Oh, I was going to suggest we not act on it. Take a closer look.

Will Moore: The other option is that you could go ahead and schedule your public hearing for June, get that, and that you would not necessarily be obligated to act on the amendment at your June meeting, but go ahead and schedule the public hearing so you can gather that input.

Terry Cooke: [off mic] way, we would obviously be able to have the benefit of the thinking of folks in town who think this is a good idea or not such a great idea.

Will Moore: And the other thing that I should have mentioned just for I think the Commission gets it, but for the viewing public is that if this amendment passes, every real estate office that we currently have in C-2 can continue without interruption seamlessly, and they can stay there as long as they stay there. There's no limitations. They have protections within our non-conforming situations chapter that allows them to continue. They could not relocate to another space on the ground floor in the C-2 District, but they could continue in their existing building. If they don't occupy all of their existing building. They could even expand within that building. But they can't expand to other spaces or to occupy more land area than they currently occupy. So.

Terry Cooke: Okay.

Bud Jacobs: I'll make a motion, Mr. Chairman.

Terry Cooke: Yes, sir.

Bud Jacobs: And I'd like to amend the motion just a little bit, Will. I move that the Commission advertise the proposed amendment for public hearing at the June 26th meeting, and I added the word proposed.

Terry Cooke: A motion. Do we have a second?

Don Woodruff: Second.

Terry Cooke: Motion and a second. Any discussion? All in favor?

All of Commission: Aye.

Terry Cooke: Opposed? Abstentions? Motion is approved. Thank you. Okay. That concludes our Work Session. We did that more quickly than I anticipated. We will now convene the regular meeting of the Commission. We will call that meeting to order. First agenda item would be disclosure by the Commission Members of any meeting with many applicants having matters before the Commission. Rhonda, would you please call the roll on that?

Rhonda North: Chair Cooke.

Terry Cooke: No such meetings or discussions.

Rhonda North: Vice Chair Woodruff.

Don Woodruff: I've had no such meetings.

Rhonda North: Commissioner Minchew.

Rachel Minchew: I've had no such meetings.

Rhonda North: Commissioner Stein.

Mimi Stein: I've had no meetings with any applicants.

Rhonda North: Council Member Jacobs.

Bud Jacobs: I've had no discussions or meetings with any applicants who have matters pending before the Commission.

Terry Cooke: Thank you all. That agenda item is concluded. We'll move on to public comment. This is an opportunity for any members of the public who wish to bring matters of concern to the Commission at this time. Rhonda, has anyone signed up for anything?

Rhonda North: We don't have anyone.

Terry Cooke: Does the audience have anything they want to address the Commission on at this time? Yes. And please state your name and address.

Dominic Mingione: Yes, sir. I'm Dominic Mingione. Briefly, I've lived in Middleburg here since 1996.

Terry Cooke: Where do you live?

Dominic Mingione: Out in the town. And 2015 moved across the way into the Plains a couple of minutes down. Okay, so I'm one of the builders here in town that while you're here, I guess with all this, I wanted to go over a couple of things and try and be brief. One is the financial aspect of the homeowners in the R-2 District. And if any of you live there or anybody on Town Council lives there, it's my opinion that the values be affected.

Terry Cooke: Some of them didn't hear that.

Dominic Mingione: The values will be affected.

Terry Cooke: Thank you.

Dominic Mingione: They will not be able to sell their homes in the future for what they probably can get today. That's just my opinion. There are a lot of nice homes, brick homes that you can do a nice addition on the back. Not something to demolish, but I think they'll be affected because some of the prices you won't be able to do as a builder, I cannot offer Mr. Moore the amount of money his home or some of the others. When these residents go in, try, and do an addition, they'll be affected. If they want to do that financially if they go to sell in the future, they want to move down south, cheaper living. They're not going to get as much money. If they need to go into assisted living at one point, they're not going to have as much money to be able to do that. Everybody would like to get a little bit more out of their homes. And in America, that's your nest egg for the most part. So the other part is there's a lot in all these drafts that you really have to go into detail. And I suggest that some models be done for the July meeting with the public. Because when you say a 0.3 FAR or a 0.4 FAR or you say going and reducing your height down to 25, 20, most counties, for example, are 35. You went to 30 here and now you're at 25. Let's look at a 20, for example. And I'm going to try and be brief with all this, but I really suggest any one of you as a group or individually, if you want to meet me, to just kind of discuss it and understand more about it. The town has my numbers. You can do that. I'm always in town, live right up the road. Call me the same day and I can meet. So anyway, take the height, for example. You go down to a 20 foot. You got your first deck, 12 inches. Just rough numbers here. You need lower than that for [inaudible]. So let's just call it six. But it's a little bit more. That's a foot and a half. You take a nine-foot ceiling, that's 10.5ft, you take your second-floor deck for a second floor. That would be 11.5ft. And if you have an eight-foot ceiling, that's 19.5ft. You want to go to 20, even with a 25 you're not going to have a great design with that roof. And if you go to a 20, you will not be able. So basically what you're saying to these homeowners is that you're going to have to deal with just a one-story home and that's going to affect their value. Look at an FAR for example, a 0.3. Let's take one of the smaller lots, 74 or five square feet. The other size lot is 10,000 or 11,000ft². A 0.3 floor to area ratio. So 0.3 of the 7,400, let's just call it 2,100ft². That's going to be your maximum. And what does that really mean? That means they're going to take 50% of your basement. So let's say you have a 2,200 square foot rambler on two levels, basement, and above ground. Let's take the basement. Let's just call it a 1,000ft². I'm mathematically challenged sometimes too. [laughter] So your basement, 1,500ft² for the basement and then you have 1,000 upstairs. So that's 1,000. So you take 500 and 1,000, that's 1,500. 0.3 of 7,400 is 2100. Let's call it 2,200. 1500 minus 22 means 700ft² on two levels, 350ft². I mean, it won't even pay to go to a builder when they see the price to just come in and just do six, 700ft². So there's a lot of things without me going into the other stuff. I mean, you've got a lot of good zoning here already. 7.5ft setback. We can go to 12.5ft, a maximum, one foot up to five feet and then go up to 30ft. So what does that mean? We just increase the size, the setback from your house to your property by about 66% over the minimum. That's huge. And what we're saying is and that's 12- and one-half feet. So if you go to, say, Sycamore Street, I got 12.5ft to the side property on one side and the other side. And most of the time when you have those 11,000 square foot lots, you're sitting next to another 11,000 square foot lot. So we're looking at 25ft between structures. And when you put that building on there, I would love for any of you to come meet me over there and see what this all does, because I think it's going to hurt these homeowners. I have a first-floor master. If you go and look at that plan and we say about reducing, I will not get a first-floor master and people do in this town need it. One of the homes that I built on Blue Ridge, they live on a farm. They came out, but they're going to deal with the stairs. But they would have loved to have a first-floor master. I could not do it on that lot. It's a 50-foot-wide lot, 7.5ft each side. You take 15 -50. I mean, there's not much left. And now this is going to be more restrictive. So we got the financial I think that is really important for these people. And then we also have what are these all these things mean because I had to actually take out a piece of paper and start on every one of those scenarios I had to actually take out and say, okay, now let me do the FAR example. Now let me do the height example. Now let me do this. And it's I mean, what you have in place right now is good zoning. It really is good zoning. So but thank you, Chairman and Members of the Planning Commission. But please take me up to go visit my home or talk to me over the phone. It can be anything but. But I'd love to be able to share and have you understand really specifically

what these changes mean. And also, one last thing. I mean, I don't know if it's against any of the regs, but if we're really thinking about the townspeople on what they really want, can you do a town vote? And I know that when you give your decision and everything or recommendations Town Council then can still vote. You could say no to everything, and Town Council can still majority vote. Put this into place. And I think this meeting in June or July is really good. But this is serious stuff here. And I think really to understand have a model of what the FAR means, what the height means, What is the 2,000 square foot on a 7,400 square foot lot? And these changes, what does that do to that person's property values or what they can do? They might not want to move. They might want to just do an addition. I think I was here a couple of weeks ago. It was a Town Council. There was somebody who lived on Stonewall, and they wanted to build, I think, an addition or something. And they were concerned about what these things would do to affect, you know, what she wanted to do there. So but anyway, I want to thank you very much.

Terry Cooke: Thank you, Dom. And I appreciate your perspective. And I hope that you will sort of keep an eye on on where this how this progresses and perhaps come back and address whatever body it's before at that time, because I think this kind of perspective is important. Anybody have any questions for Dom? No, Thank you.

Rachel Minchew: Thank you.

Mimi Stein: Thank you very much.

Will Moore: If I may, Mr. Chairman, before Dominic escapes, it might be informative if you're out and about and I encourage you to get out and about. You did that a lot when you were studying this with the Berkley group. But the development that has happened since in particular, two homes on Sycamore at 204, which is completed, and 206 which is well underway, those are both Dominic's projects and those are the ones, the two one that's completed, one that's in progress that are being done under the most current set of regulations. So a lot of the other infill ones, including the ones he did on Blue Ridge, were done before the most recent amendment. So if you look at those two homes on Sycamore, that's really informative of what do our current regulations really mean? So that would be helpful.

Terry Cooke: I agree. And I did that very thing thing. I did a windshield survey today of all of the homes listed on this table that you did for us, and it was.

Will Moore: Yes sir. [multiple speakers]

Dominic Mingione: Walk you through them. And if some of this gets into place, you will not be having the first-floor master bedroom in that plan once you see it, because this is going to really affect it.

Terry Cooke: All right. Thank you again. Anyone else in the public comment? [off mic] Name and address please.

Mike Morency: I'm Mike Morency. I live at 2329 Landmark School Road, which is about two miles outside town, out past the old school. And but my wife and I own property at 104 Reed Street, which is across from the library and the newer houses there. There are five lots there, five 50-foot lots. And so we bought that from my parents about 15 years ago. They lived there for about 35 years prior to our buying it. So we've been around town for a very long time. So my wife and I have always thought that we might move into town. We live on a farm now and we might move into town as we get older and I'm getting older, so that might come to pass. But anyway, I'd like to my concern is the newer houses that have been built in town and have been have changed the character of the town. And seeing, the houses that have been built on Reed Street, for example, right across from our property I wonder if people might envision the same set of houses, only five of them being built on our property, which is higher than the property there across the street. And I think what that might look like. I think it's unfortunate that a lot of these newer houses have been built to the scale that they have. And I certainly agree that no one wants to impinge on people's property rights and what they can do with their property. But I think that the appeal of the town is the character of the housing that is in the town. And I'm not opposed to change, but I think it's reasonable to establish some maximums and trying to keep with the character of the town. So I don't know exactly what the right formula is. I have read the amendment. I support the amendment that the Town Council has forwarded to you. I think I would probably if I were picking the numbers, I would pick the 25% and the 0.4 FAR. I think that's reasonable. But so but I also realize there are many property owners in the town, and I think it's really important to hear from all of them. So I applaud the effort to establish a community meeting and get the sense of the community. The town has always been very good about soliciting public

opinion. And this is another example. I mean, these discussions have been going on for several months. And so I think people should be somewhat aware of the effort. And having a community meeting is a great idea. So I look forward to the community meeting and the process that follows. I understand that you're the Planning Commission, as well as the Town Council, has invested a lot of time in this issue prior to this amendment being proposed with the restrictions that were added before that. So I think it's all in the best interests of the town. But anyway, I just wanted my wife and I support the amendment and I hope that that goes forward.

Terry Cooke: Thank you. Thank you.

Mike Morency: You're welcome.

Terry Cooke: Anyone else wish to offer any further comments at this time? Yes, sir.

Marc Chretien: Marc Chretien. 3639 36 Road, Arlington, Virginia. Chairman Commissioners. Mr. Moore, I'll be quick and painless tonight. I've come to thank you for all the work you did on our request to have an Inn. I deeply appreciate it. And I was perfectly okay with the comments from the neighbors, and we thought we could meet it more than half way. Our real issue happened to be time. We had a four-month purchase option agreement. I couldn't extend it really, and hold another realty firm at bay much longer, which is. But I will point out we are vitally interested in growing our business, which includes an Inn at some point. We will regroup, come up with something else. And just again, thank you. And I also, because I sat here and listened to some very interesting policy points, I'm intrigued and impressed at your diligence and winnowing out different issues. So thank you very much. And you probably will see me again.

Terry Cooke: We look forward to it. Thank you.

Marc Chretien: Thanks.

Terry Cooke: Anyone else before we move on. Okay, Very good. Our next agenda item is approval of the minutes for the Commission's April 24th, 2023 work session and regular meeting. Do we have a motion on the minutes?

Don Woodruff: I move that the minutes be accepted as presented.

Terry Cooke: We have a second.

Bud Jacobs: Second?

Terry Cooke: Any discussion? Rhonda, would you call the roll, please?

Rhonda North: Vice Chair Woodruff?

Don Woodruff: Yes.

Rhonda North: Commissioner Minchew?

Rachel Minchew: Yes.

Rhonda North: Commissioner Stein?

Mimi Stein: Yes.

Rhonda North: Council Member Jacobs?

Bud Jacobs: Yes.

Terry Cooke: Motion carries. Thank you all. Next item. Unfinished business. Okay. We have two matters that are in that category, both involving the property at is it 204 East Washington?

Will Moore: Yes sir.

Terry Cooke: [off mic]. Will, do you want to just tell us where we are on those?

Will Moore: Yeah. So I simply listed these because you were expecting them on your agenda from your discussion last month. But even though Mr. Chretien didn't necessarily mention it in his comments, he has withdrawn those applications. So there's no further work for the Commission to do on those. As I noted in my email distributing the agenda, the Council held a discussion at their May 11th meeting on the Zoning Text Amendment that was somewhat related that would have been necessary to have been put in place in order for his applications to then advance for consideration. While the Council has not taken action on that amendment they have their public hearing this Thursday, May 25th, and are anticipated to take action. There was a strong indication, strong consensus at the May 11th meeting that they intended to deny that Zoning Text Amendment. So following that meeting, Mr. Chretien withdrew his applications. I think it's worthy to note, as I did in my email to you, that he had done a lot of work on those applications, particularly the Special Use Permit, to try to address concerns that were raised by members of the public, address questions and concerns that were raised by the Commission. He did a lot of work in between your April 24th meeting and that May 11th Council discussion, but you don't get the benefit or the work in reviewing those revisions that he had made with those applications now being withdrawn.

Terry Cooke: Thank you Will. The next item is the Council representative report Council Member Jacobs. Anything to share with us?

Bud Jacobs: Thank you, Mr. Chairman. The Farmer's Market kicked off on Saturday. I don't know if you had had a chance to go over and look at it. I was there only for about an hour and when I left, attendance was still pretty anemic. But I think that's quite understandable after the suspension and hopefully people will start to come out as they did in years past before COVID. It's in the parking lot of the charter school and that to me looked like a pretty decent venue, actually, although I believe in future iterations, once everything is done here, it'll be held in the town square. I'd like to talk just a little bit about Mr. Chretien's withdrawal and the discussion that took place in Council on May, whatever it was, 11, I guess. The issue that Council was asked to consider was only the first ZTA, the one we discussed. Trying to answer the question whether it made sense to include an Inn as a Special Use Exception in C-1 zoning districts. There was substantial participation from the public. If you haven't watched it, I'd urge you to do so and get a sense of the kinds of, well, almost exclusively negative reactions that people had to the idea of the Inn, however.

Don Woodruff: Of an Inn.

Bud Jacobs: Of an Inn. Well, no of the Inn the one that Chretien because neither the public nor Council, in my view, really severed the issues. What we were asking them to consider was just the question, basic question does it make sense to allow this as a Special Use Exception? Of course, it got all bound up in Mr. Chretien's applications, and it was I found it a little frustrating. Mr. Chretien, subsequently, having read the room, withdrew his applications and Council, did make it very clear, as Will just noted, that they will likely not approve the inclusion of an Inn as a Special Use in the Z-1 Zoning Provisions. I think that's an unfortunate. I think it was probably useful and appropriate for Council to consider that issue and make a recommendation. And I'm just sorry that the discussion got so bound up in people's very strong feelings about that particular pending application. And I guess I'll, leave it at that.

Terry Cooke: Thank you, Bud. I watched the the public hearing at the Council meeting as well. And I, share your, your disappointment that the Council didn't take a more is holistic the word I'm not sure, more holistic view of the basic question should an Inn of some sort subject to conditions under a Special Use Permit be permitted in the C-1 District? This was very much, in my opinion, a vote on the particular proposal that Marc had made. And I think I'm curious as to what's going to become of that structure now. To me, it seemed that that edifice, particularly in view of its age and character. Could serve as a place of accommodation, not necessarily for 20 rooms or maybe not even ten rooms, but some use as an Inn. But that's that's by the wayside now. So.

Mimi Stein: It looks like an Inn.

Terry Cooke: It does look like an Inn. [off mic] Okay anyone else have any thoughts on that before we move on. Okay. Thank you. Which brings us. Oh, let's see. We do have a discussion item regarding variance application. The Board of Zoning Appeals rare as hen's teeth. [laughter]

Will Moore: Very, very rare. And we have two variance applications. The Board of Zoning Appeals has actually not met to hear a case since 2008. They still meet on an annual basis for an organizational meeting. We had an application six years ago or so, but it was withdrawn before it was heard. So this is interesting that we will have a case. There's a provision in the state code that I have to notify you when applications are filed for the BZA. So this agenda item is partially meant to satisfy that requirement so that, you know that the applications have been filed. The other part, and I've had a couple of members of this body ask me about it, is where under the recommendation section I note that you may send a recommendation to the BZA on applications or even appear as a party at the hearing. That is, I note, here at the discretion of the Commission. The Town Attorney noted that I should highlight those options are available to you. I have never known a Planning Commission in my well, I wouldn't have known it here because we haven't heard a case. But in my former place of employment for 13 years, I've never known a Planning Commission to exercise either of those options to weigh in with a recommendation or appear as a party. But there are options available for you. So I'm making you aware of those. I think it is it will be interesting to see how these turn out. Both of these relate to coverage requirements. One is related to building lot coverage, another related to impervious lot coverage. So these could be somewhat informative. Are these harbingers of more to come in the future? Hopefully not. And I say that hopefully. And you know, to be fair to the applicants, one of the findings that you must make in granting a variance is that it's not something that is of a generally recurring nature that would be better suited by an amendment to the ordinance that everybody could benefit from. And instead, there's supposed to be something very particular about your lot or your particular application that's not shared by your neighbors and other people in general that makes it worthy of consideration for a deviation from a standard. So but anyway, I even though Mr. Roszel is not here, I should not discuss the facts of these particular cases with you myself, because that could still potentially be considered a form of ex parte communication between myself as non-legal staff and Mr. Roszel if he were to watch this meeting. But if you wanted to discuss those cases amongst yourselves, you're more than welcome to. I just can't participate in that discussion.

Terry Cooke: Thank you, Will. This is the Chairman. I think both of these variances are interesting and I'm going to confine my remarks to that. And be interested to know if anyone on the Commission feels that the Commission as a group should take a participating role in this. [off mic] Good. I agree with that. For the record, the Commission Members suggested a lack of interest in appearing or taking a position on these variances. And I think we'll let it go at that. The code is very clear. I mean, the BZA has specific criteria that they have to consider and make a make a decision on. And I think it's best left to them to do that. So. Okay. Thank you. That item is concluded. We'll now turn to a quorum for our January 26th meeting. Is everyone here this evening expect to be here.

Bud Jacobs: Don't know about January, but I'll be here in June.

Terry Cooke: Oh, did I say January? [laughter] I'm trying to move things along.

Don Woodruff: I'll be here in January. [multiple speakers]

Terry Cooke: I'm anticipating. Maybe we'll be in the new facility by January.

Don Woodruff: I will be absent.

Terry Cooke: You will not be here next month.

Don Woodruff: I will be on a porch in Maine eating lobsters.

Terry Cooke: Good for you. Good for you. I hope you're not swatting too many black flies up there.

Don Woodruff: Never had a problem with it.

Terry Cooke: Oh, is that right? Yeah. Good.

Don Woodruff: We tell them to go across on the other side of the lake.

Terry Cooke: Very good.

Don Woodruff: Or the coast.

Terry Cooke: Okay, that concludes our agenda for this evening. And with that, ladies and gentlemen, we're adjourned. Thank you all again.

Bud Jacobs: Wow. Thank you. Well done. Fantastic